

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EURAL DEBBS, SR.,

Plaintiff,

v.

VALLEY CONVALSCENT HOSPITAL,

Defendant.

Case No. 1:22-cv-00248-AWI-CDB

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS DISMISSING
WITHOUT PREJUDICE PLAINTIFF'S FIRST
AMENDED COMPLAINT

(Doc. 11)

Eural Debbs, Sr. ("Plaintiff") is proceeding *pro se* and *in forma pauperis* in this action. (Docs. 1-2, 5). On March 4, 2022, Plaintiff filed a First Amended Complaint ("FAC"). (Doc. 4). The Court screened Plaintiff's FAC on March 21, 2022. (Doc. 6). The Court found Plaintiff's FAC failed to state a claim against any defendant and provided Plaintiff 30 days to file a Second Amended Complaint ("SAC") or notify the Court in writing that he wants to stand on his FAC. *Id.* Plaintiff failed to respond within the provided 30 days.

On May 12, 2022, the Court issued an order to show cause why this action should not be dismissed for failure to comply with the Court's orders. (Doc. 7). Plaintiff filed a response to the order to show cause on June 3, 2022 (Doc. 8), and the Court issued an order discharging the order to show cause (Doc. 9). Again, the Court provided Plaintiff 30 days to file a SAC or notify the Court in writing that he wants to stand on his FAC. *Id.* at 13. Plaintiff failed to respond within the provided 30 days.

1 On October 19, 2022, the assigned magistrate judge found Plaintiff had failed to comply
2 with a court order and failed to prosecute his case. (Doc. 11). The assigned magistrate judge
3 recommended the action be dismissed without prejudice. *Id.* The Court served the findings and
4 recommendations on Plaintiff by mail on November 4, 2022. (Doc. 12). The findings and
5 recommendations advised Plaintiff that he must file any objections within 14 days after service of
6 the order and that the “failure to file objections within the specified time may waive the right to
7 appeal the District Court’s order.” *Id.* at 5 (citing *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th
8 Cir. 2014); *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

9 On November 14, 2022, the Court received notice the findings and recommendations
10 served on Plaintiff by mail were returned as undeliverable. (Doc. 12). On December 16, 2022,
11 Plaintiff’s address was updated pursuant to a notice of change of address filed in *Debbs v. Dignity*
12 *Health Hospital*, Case No. 1:22-cv-00351-ADA-HBK. (Doc. 13). That same day, the Court re-
13 served the findings and recommendations on Plaintiff by mail. *Id.* Plaintiff did not file
14 objections or any other response to the findings and recommendations, and the deadline to do so
15 has expired.

16 Pursuant to 28 U.S.C. § 636(b)(1)(C), and Local Rule 304, this Court conducted a *de novo*
17 review of this case. Having carefully reviewed the entire matter, this Court concludes the
18 findings and recommendations are supported by the record and by proper analysis.

19 Accordingly, IT IS HEREBY ORDERED that:

- 20 1. The October 19, 2022, Findings and Recommendations (Doc. 11) are adopted in full;
21 2. Plaintiff’s first amended complaint (Doc. 4) is dismissed without prejudice for failure to
22 prosecute and failure to comply with a court order; and
23 3. The Clerk of the Court be directed to close this case.

24 IT IS SO ORDERED.

25 Dated: January 11, 2023

26 
27 SENIOR DISTRICT JUDGE
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